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JSU Compliance Plan 2017

Policy:

Jicarilla Service Unit Compliance Plan

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I. Purpose

This plan has been developed to provide guidance to the Jicarilla Service Unit (JSU) employees and agents to ensure that quality healthcare is provided in a manner legally required by Federal, State, and Third - Party Payer regulations. The Plan also contains several resources to help resolve questions about appropriate conduct. The JSU Compliance Program is designed to foster a culture that promotes the prevention, - detection and resolution of instances of conduct that do not conform to federal and state law, or to federal healthcare program requirements. - It is the purpose of the Jicarilla Service Unit Compliance Plan to: -

- Demonstrate the clinic's commitment to honest and responsible conduct and ethics
- Increase the likelihood of preventing, identifying, correcting unlawful and unethical behavior at an early stage. Monitor risk areas and document compliance efforts
- Encourage employees to report potential problems to allow for appropriate internal inquiry and corrective action
- Minimize any financial loss to the Service Unit, as well as any corresponding financial loss through early detection and reporting
- Improve medical documentation, correct errors in coding, and minimize the risk of inappropriate billing
- Provide a mechanism for the continual assessment and evaluation of the effectiveness of the program's compliance to all applicable guidelines and regulation laws.

II. Management and Employee Responsibility regarding the Compliance Plan

A. Governing Board responsibilities in the Compliance Plan

1. The Governing Board is responsible for identifying needs for appropriate resources to ensure compliance is in place and accessible
2. Holds themselves and employees accountable for their actions
3. Establishes and distributes policies and procedures
4. Assures appropriate training is provided regarding compliance
5. Provides oversight for the facility compliance plan by periodically reporting the status of the plan and potential compliance issues to the compliance officer
6. Assures appropriate investigations are conducted on all alleged violations of the law, the standard code of conduct or any other system policies and procedures

B. Role of the Compliance Officer

1. To assist in the organization and implementation of all aspects of the compliance plan, including any necessary revisions.
2. Reporting on a regular basis with the Governing Board and Compliance Committee members on program progress
3. To help employees understand the requirements of the Compliance Plan by coordinating training, guidelines, policies, and procedures, (resources) etc.
4. To ensure regular audits of coding and billing practice to assure compliance to all rules and regulations.
5. To conduct and coordinate external and internal investigations

C. Role of the Compliance Committee

1. Assess the clinic's existing policies and procedures that address compliance for possible incorporation into the compliance program
2. Analyze the organization, the legal requirements with which it must comply and identify specific risk areas
3. Work with departments to develop policies and procedures that promote compliance with the clinic's program

D. Role of Business Office

1. To eliminate duplicate billing of patient encounters, non-covered or covered admissions
2. Schedule review of random records with special attention given to procedures relating to billing practices and engagement in certain business affiliations that may affect competition
3. Have a policy describing the retention schedule of medical documents and records in accordance with CMS requirements.
4. Ensure compliance with and training of BO staff on the following:
 - Jicarilla Service Unit Business Office Policies and Procedures
 - Jicarilla Service Unit Electronic Health Record Policies and Procedures with regards to BO
 - Workers Compensation – Schedule for Medical and Hospital Fees
 - Civil and criminal provisions of the Social Security Act (42 U.S.C., 1320a-7a and 1320a-7b)
 - 18 U.S.C., 1035 & 1347 concerning false statements relating to health care and health care fraud
 - Medicare Claims Processing Manual for Indian Health, Chapter 19

- American Medical Association CPT/HCPCS Guidelines
- American Medical Association ICD-9-CM Guidelines
- Healthcare Financial Management Association (HFMA) Code of Ethics
- False Claims Act
- HIPAA/Privacy Act of 1974 regulations

E. Role of HIM

1. To monitor and identify compliance issues with clinical documentation
2. Schedule review of random records with special attention given to HIM procedures, documentation and coding practices.
3. Ensure compliance with and training of HIM staff on the following:
 - Jicarilla Service Unit Coding Policies and Procedures
 - Jicarilla Service Unit Electronic Health Record Policies and Procedures with regards to HIM
 - 18 U.S.C., 1035 & 1347 concerning false statements relating to health care and health care fraud
 - American Medical Association CPT/HCPCS Guidelines
 - American Medical Association ICD-9-CM Guidelines
 - Healthcare Financial Management Association (HFMA) Code of Ethics
 - American Health Information Management Association (AHIMA) Standards of Ethical Coding
 - HIPAA/Privacy Act of 1974 regulations

F. Role of Purchased Referred Care

1. To evaluate medically unnecessary referrals
2. To follow up on repeat referrals due to incomplete care, premature discharge, and inappropriate referrals
3. Schedule review of random records with special attention given to PRC procedures, the giving / receiving of compensation to induce referrals.
4. Ensure compliance with and training of PRC staff on the following:
 - JSU Referral Policy and Procedures
 - Sherman Antitrust Act (15 U.S.C., 1, 2 and 18)
 - The Anti-Kickback Laws (42 U.S.C., 1320a-7b(b))
 - HIPAA/Privacy Act of 1974 regulations

G. Role of the Quality Improvement Officer

1. - Ensure that a reasonable and prudent background investigation has been conducted to determine whether prospective medical staff employees were ever criminally convicted, suspended, debarred or - excluded from participation in a program. -
2. Ensure that practitioners who hold a professional license, certification, or credentials have a valid license, certification, or credentials.

H. Role of the Medical Provider

1. Ensure that medical record documentation is complete, legible and accurate.
2. Ensure compliance to all patient encounters, coding and billing regulations.
3. Ensure compliance with ethical standards in admitting, provision of care and referrals.
4. To comply with the:
 - Jicarilla Service Unit Medical Staff Bylaws, Rules and Regulations
 - Jicarilla Service Unit Electronic Health Record Policies and Procedures
 - IHS Manual Chapter 3 Part 23.2 Specific Ethical Conduct 3-23.2 A (7) relating to Relationships Between Providers and Patients
 - Applicable provisions of the False Claims Act (31 U.S.C., 3729)
 - Anti-Kickback Laws (42 U.S.C., 1320a-7b(b))
 - The Patient Anti-dumping statute (42 U.S.C., 1395dd)
 - Stark Law or Physician Self-referral Law
 - HIPAA/Privacy Act of 1974 regulations

I. Employee's responsibilities in the Compliance Plan – ALL Employees:

1. Know and comply with the Compliance Plan and all related policies and procedures
2. Regularly review the standards of conduct and supporting policies
3. Participate in compliance-related training, job specific training, and staff meetings
4. Know the facility's compliance officer and know how to reach him/her
5. Ask questions / seek assistance when uncertain about the proper course of action when related to ethical behavior or law.
6. Abide by the requirements within the standard code of conduct and standards of ethical conduct.
7. Support those who report suspected violations of the standard code of conduct or any other violations of the law. The facility forbids retaliation against those who report suspected violations.
8. - Be vigilant in identifying situations that could result in illegal or unethical conduct, and encourage other co-workers to consult with supervisors or the Compliance Officer when they might be violating - regulations or the standard of conduct -
9. Report suspected violations of regulations, the standard code of conduct, or the compliance plan

III. Standards of Ethical Conduct

As a federal agency, Jicarilla Service Unit employees must comply with national and regional Standards of Conduct and Standards of Ethical Conduct. These standards delineate the policies that regulate identification, investigation, elimination and reporting of fraud, waste and abuse, and kickbacks. All JSU employees must be aware of the legal requirements and restrictions applicable to their respective positions and duties. These standards adhere to the guidelines and regulations as set forth in the following:

Indian Health Service and Related Documents:

1. Department of Health and Human Service Standards of Ethical Conduct for Federal Employees, <http://www.ihs.gov/GeneralWeb/WebComponents/Documents/hldb/8328-200409150934214.pdf>
2. Standards of Ethical Conduct for Employees of the Executive Branch, <http://www.oge.gov/Laws-and-Regulations/Employee-Standards-of-Conduct/Employee-Standards-of-Conduct/>
3. Indian Health Service Manual (IHM), http://www.ihs.gov/ihtm/index.cfm?module=dsp_ihm_pc_p1c1
4. Commissioned Officer Standards of Conduct, http://dcp.psc.gov/PDF_docs/Standards_May2004pdf, if the employee is a Commissioned Officer.

All employees after appropriate training are required to certify that they understand, and agree to comply with the standards. JSU shall implement programs necessary to further awareness and promote compliance with laws and regulations. Any questions about the legality or propriety of any actions undertaken on behalf of JSU should be referred immediately to one's supervisor, the Compliance Officer or a Compliance Committee member.

IV. Designation of a Facility Compliance Officer and Compliance Committee

A. Compliance Officer

In order to establish accountability, credibility, and structure to the compliance plan, a Compliance Officer will be appointed to provide oversight, assure proper functioning, and implementation of the compliance plan. The primary function of the Compliance Officer is to oversee the implementation and maintenance of the Compliance Program.

The Compliance Officer has the responsibility and authority to oversee all compliance activities. The Compliance Officer will coordinate the education and training programs for employees and contractors, respond to inquiries regarding inappropriate billing, documentation, coding and business practices, plan and oversee regular, periodic audits and investigate any allegations of possible impropriety.

The duties and responsibilities formally delegated to the Compliance Officer by the facility's Governing Board are as follows:

1. Oversees the implementation of the facility's compliance plan
2. Reviews the content and performance of the facility's compliance plan on a continuing basis and takes appropriate steps to improve its effectiveness
3. Coordinates efforts with Quality Improvement Officer to implement and monitor an effective compliance training program for new employees (introductory) and ongoing training for all employees
4. Coordinates efforts with Quality Improvement Officer to ensure that independent contractors and agents who furnish medical services to the facility are aware of the compliance plan
5. Develops, implements, and maintains documents related to the compliance plan: applicable policies, procedures, protocols, and employee education materials
6. Takes reasonable steps to ensure that employees can report problems and concerns without fear or reprisal

Conflict of Interest

Every effort will be made on behalf of the organization to allow the Compliance Officer to operate independently. Conflict of Interest, to the extent possible, should be avoided to allow "independent and objective legal reviews and financial analysis of the institution's compliance efforts and activities". (Federal Register / Vol 63, No. 34 / Feb 23, 1998)

The Compliance Officer has the authority to review all documents and other information that are relevant to compliance activities, including, but not limited to, medical records, billing records, contracts and obligations that may contain referral and payment issues.

Privacy

The Compliance Officer when conducting investigations will coordinate with the Health Information Management Supervisor to ensure the health record is maintained in strict confidence. Information from the records shall be disclosed only in conformance with applicable Federal laws and regulations, policies of the IHS, and the laws of the State or Tribe. The Compliance Officer will have authorized access to health records on a "need to know" basis and comply with the HIPAA/Privacy Act of 1974 regulations.

B. Compliance Committee

The Compliance Committee will advise the Compliance Officer and assist in the implementation of the Compliance Program. The Compliance Committee will establish compliance standards and policies and procedures to be followed by employees and service unit agents. These standards will be in accordance with established laws, rules and regulations. The goal of these standards will be to reasonably reduce the prospect of criminal conduct and unethical behavior. The plan and related policies and procedures will be reviewed and approved by the Governing Board of the clinic.

Membership shall consist of the Compliance Officer, Chief Executive Officer, Health Information Management Coder, Business Office Manager, Contract Health Supervisor, Quality Improvement Officer, and Clinical Director of the Jicarilla Service Unit.

The Health Information Management Supervisor will provide regular reports on external audit actions items and will be reviewed at each Compliance meeting. The Committee will assist with the development of and updates/revisions to policies and procedures related to coding.

The Committee will assist with development of monitoring tools for evaluation of medical record completion, coding, and the general effectiveness of the coding aspects of the compliance program. The Committee may also develop coding training agendas and related materials. The staff in the Health Information Management and Business Office staff should keep the compliance committee informed of compliance issues that pertain to coding and billing departments.

Meetings shall be held no less than biannually. All members of the committee are eligible to vote. A quorum of four members is required to conduct a business meeting. Minutes of the meeting will be written and forwarded to all members for final approval.

V. Conducting Effective Compliance Education and Training

A. Objectives of Education and Training

1. Increase staff knowledge and awareness
2. Improve compliance
3. - Promote ethical skills and behavior

The education component of the Compliance Plan promotes the Jicarilla Service Unit's policy of adherence to the highest level of professional and ethical standards, as well as applicable laws and regulations. This shall include the Privacy Act and Health Insurance Portability Accounting Act (HIPAA) training requirement for all employees.

As such, the facility will make available appropriate education and training programs and resources to ensure that all employees are thoroughly familiar with those areas of the law that apply to and impact upon the conduct of their respective duties, including, without limitations, the specific areas of documentation, coding, billing, and competitive practices.

Attendance and participation in training programs will be mandatory on an annual basis and failure to comply with training requirements should result in disciplinary action.

B. - Responsibility of Education and Training

The Compliance Officer is responsible for implementation of the education program. The Compliance Officer should provide general compliance training to all employees that effectively communicates the requirements of the compliance program, including an appropriate level of information and instruction regarding ethical and legal standards, including but not limited to, standards for documentation, coding, billing, and competitive practices, with the appropriate procedures to carry out the facility's policy and procedures.

When possible, actual compliance scenarios and/or investigations of non-compliance should be used in the training. When using actual scenarios, care should be taken to protect the privacy of the individuals involved.

Additional education and training of select employees with regard to coding/billing may be conducted on a one-on-one basis.

C. - Subject Matter of Education and Training

Business office, Health Information Management and Contract Health Supervisors shall ensure their staff receives annual training specifically related to their departments as described under Section II of this document.

The Compliance Officer and/or the Compliance Committee shall ensure education of all employees on the following:

1. Standards of Ethical Conduct as described in Section II
2. The regulations covering Medical Providers described in Section II
3. The role of the all employees as described in Section II
4. - Duty to report misconduct and procedures for reporting alleged misconductThe educational program shall explain the applicability of pertinent laws, including without limitation, applicable provisions to the False Claims Act, the civil and criminal offenses concerning false statements relating to healthcare matters, the criminal offense of health care fraud, the Federal Anti-Referral Laws, Self-Referral Law (Stark's Law), the Anti-Kickback Laws, and the Sherman Anti-Trust Act. Provisions related to Business Office/Medical Records and Contract Health Services may also be included. Additional legal issues as identified may be included in the educational program.

D. Intervals of Education and Training

All current employees will receive appropriate education and training concerning the Compliance Program Implementation upon hire and thereafter at reasonable intervals. The training will be coordinated by the Compliance Officer, by the Compliance Committee or when appropriate, by Department Supervisors/Managers. The facility's orientation for new employees will include a discussion of the Compliance plan and an employee's obligation to maintain the highest level of the standards of conduct and ethical behavior. Specific compliance training is considered mandatory.

A. Certificate of Education and Training

All employees after appropriate training are required to certify that they understand, and agree to comply with the standards described in the Compliance Plan. The Compliance Committee is in agreement that an attendance form is sufficient for this purpose and will be retained by the Compliance Officer. A signed copy of the employee acknowledgment form will only be required for employees who were not able to attend general training. These employees will be provided one-on-one training with the Compliance Officer or provided training materials to review by the Compliance Officer.

Each education / training program conducted shall reinforce the policy that strict compliance with the law and the provisions contained in the facility Compliance Plan is considered a condition of employment.

VI. Auditing and Monitoring Compliance Activities

A. Objectives of Auditing and Monitoring

An ongoing evaluation process is critical to the Jicarilla Service Unit Compliance Plan. In order to achieve compliance with its standards, the facility will utilize monitoring and auditing systems designed to detect employee non-compliance and by having a reporting system whereby staff and agents can report non-compliance activities.

B. Regular Audits

Internal audits, as scheduled by the Compliance Officer, shall be conducted with the assistance of and at the Compliance Officer's direction. Such audits shall evaluate the facility's compliance with its Compliance Plan and determine what, if any, compliance issues exist. Such audits shall be designed and implemented to insure compliance with the facility compliance policies and procedures, and all applicable federal and state laws. An audit plan will be developed annually, and may include audits of Business Office, Medical Records, Purchased Referred Care services, etc.

All investigations and the results thereof are considered confidential.

C. Fraud Alerts Monitoring

The Compliance Officer shall regularly and periodically monitor the issuance of Fraud Alerts by the Office of the Inspector General of the Department of Health and Human Services. The Compliance Officer shall evaluate the organization's practices for compliance on any and all fraud alert issues.

D. Compliance Reports to the Governing Board -

The Compliance Officer will report regularly, at least annually to the Governing Board on compliance plan activities. The report may include: -

1. Health Information Management, Business Office and Contract Health external review results and/or responses -
2. Risk assessments -
3. Performance Improvement outcomes or evaluations -
4. Nature of Internal investigation(s) -
5. New and updated changes in Laws and Regulations or Policies and Procedures regarding the Compliance Plan -

1. Reporting Compliance Issues and Investigation Protocol

Jicarilla Service Unit is committed to investigating all reported concerns promptly and confidentially to the extent possible. Response to particular problems will be handled and corrective action or mediation using the sentinel/high risk event process, reporting tools, and other effective means of investigation.

Every effort will be made on behalf of the organization to allow the Compliance Officer to operate independently. Conflict of Interest, to the extent possible, should be avoided to allow "independent and objective legal reviews and financial analysis of the institution's compliance efforts and activities". (Federal Register / Vol 63, No. 34 / Feb 23, 1998)

The Compliance Officer has the authority to review all documents and other information that are relevant to compliance activities, including, but not limited to, medical records, billing records, contracts and obligations that may contain referral and payment issues.

The Compliance Officer will coordinate with the Health Information Management Supervisor to ensure the health record is maintained in strict confidence. Information from the records shall be disclosed only in conformance with applicable Federal laws and regulations, policies of the IHS, and the laws of the State or Tribe. Only authorized personnel shall have access to health records and will comply with the HIPAA/ Privacy Act of 1974 regulations

A. Internal Investigations Protocol

Reporting Compliance Issues

Reports of non-compliance shall be submitted to the Jicarilla Service Unit Compliance Officer or Chief Executive Officer. This ensures that management is aware of the situation and can take whatever steps necessary to correct problems and prevent them from recurring. The Compliance Officer will document all calls, written and verbal reports, including how they were investigated and what actions were taken.

Reports may be submitted to the Compliance Officer via:

- Phone (575) 759-7282
- Mail: Jicarilla Service Unit P.O. Box 187, Dulce, NM 87528 Attn: Compliance Officer -
- or in person -

Upon receiving a report of alleged non-compliance, the Compliance Officer:

- Will record of the complaint in the Compliance Log Book
- May review corroborating medical records.
- May interview JSU employees and/ or department heads with regard to the specific complaint and any related departmental policies or procedures.
- -Will write a report regarding the incident referencing any related medical records, and IHS/ JSU Standards of Conduct referenced in Section III A of the Compliance Plan. The investigation report will contain, at minimum, the substance and date of the complaint, investigative actions taken, narrative description of the resolution and the date of closure. The results of the audit will be submitted to the Chief Executive Officer upon completion.
- -The Chief Executive Officer will determine if any disciplinary actions are necessary. Options for correction action after determining that an act of non-compliance has occurred include disciplinary action, a review of existing policies and procedures and possible training of employees.
- Per Chief Executive Officer orders, a final copy of the completed investigation with final corrective actions will be kept with the Compliance Officer.

The reports shall specifically identify areas where improvement is needed, and in which case subsequent audits or studies would be advisable. Follow – up activities will focus on improvement and sustaining/ - maintaining performance. -

Recommendations from the Compliance Officer regarding compliance matters may also be directed to the appropriate supervisor or manager. If the results of the recommendations are not satisfactory or no - action taken, the Compliance Office will report such concerns to the Chief Executive Officer. -

Internal investigation reports will be kept in a secure area. -

The Compliance Officer will report all alleged non-compliance issues to the Chief Executive Officer. In no case will the facility endeavor to conceal either facility or individual wrongdoing -

B. External Investigations Protocol

A. External Facility Response

Jicarilla Service Unit is committed to investigating all reported concerns promptly and confidentially to the extent possible. Response to particular problems will be handled and corrective action or mediation using the sentinel/high risk event process, reporting tools, and other effective means of investigation.

1. - Planning and Training -

Immediately notify the Supervisor, Compliance Officer or Chief Executive Officer(s) on unexpected visit or receipt of subpoena(s). Frontline staff is usually the first contact when investigators arrive. It is - imperative that these employees understand their responsibilities and rights when contacted (by an investigator or other government representative). -

It is the responsibility of the Compliance Officer when available or Chief Executive Officer(s), not frontline employees, to meet with investigators, determine the purpose of the contact, coordinate with legal - counsel and the Compliance Officer, and ensure that the facility responds according to its protocols. -

2. - Policies, Procedures, and Protocols.

Policies, procedures, and protocols are available to provide guidance in responding to such incidents as requests for interviews, the service of subpoenas, and the execution of search warrants. It is essential that these policies, procedures, and protocols are reviewed and revised periodically.

3. - Appropriate Individual/Group to Respond

The designation of the appropriate individual or group to respond to inquiries should be made in the initial development/implantation period of the Compliance Officer's recommendations. This designation is made by the Chief Executive Officer in writing and disseminated through the organization.

4. General Guidelines – Employees should:

- A. Understand that the facility intends to follow all applicable laws and regulations. The facility has the responsibility to cooperate with investigators in their oversight of government-funded programs.

- B. Always respond politely and professionally when contacted by an investigator(s).
- C. Refer investigator to the appropriate individual designated by the Chief Executive Officer.
- D. Obtain the name, agency affiliation, and phone number of investigators.
- E. Immediately notify the Compliance Officer of the contact and request.

5. Risks

There are risks to everyone involved when interview requests, the service of subpoenas, the execution of search warrants are not responded to appropriately. It is important that the facility asserts its legal rights and ensures that employees are granted an opportunity to assert theirs.

I. Enforcement through Publicized Disciplinary Guidelines

Through regular training, each employee will be made aware of Compliance Plan policies and procedures and will be required to certify that they understand, and agree to comply with the standards described in the Compliance Plan. If an investigation reveals an act of non-compliance, disciplinary actions may be taken.

A. Discipline Regarding Compliance Violations

Employees who violate policies and procedures, laws and regulations will be subject to personnel regulation and disciplinary action. The appropriate discipline will depend on the nature, severity and frequency of the violation, and may result in any or all of the following actions:

- 1. Oral counseling
- 2. Written counseling
- 3. Probation
- 4. Suspension
- 5. Termination

Sanctions may also be imposed for failure to report actual or suspected non-compliance, as well as for intentional misconduct or retaliation against an employee who reports a violation.

B. Employment of, and Contracting with Ineligible Persons

JSU will ensure that a reasonable and prudent background investigation has been conducted to determine whether prospective employees and prospective non-employee subcontractors or agents were ever criminally convicted, suspended, debarred or excluded from participation in a federal program.

Employees, and individuals retained as privileged practitioners in positions which require professional licenses, certifications, or other credentials are responsible for maintaining the current status of their credentials and shall comply at all times with federal and state requirements applicable to their respective disciplines. To assure compliance and verified in good standing, Jicarilla Service Unit requires evidence of the individual having a current licenses or credential status.

The Compliance Plan does not allow employee, independent contractor or privileged practitioner to work without valid, current licenses or credentials.

IX. Developing Corrective Action Plans

The effectiveness of the Jicarilla Service Unit Compliance Plan is evaluated, at least, annually. Proactive and retrospective audits may be utilized to determine the status of the plan. -

The evaluation includes the results of periodic reviews: appropriate dissemination the plans' standards, training, ongoing education program and disciplinary actions, etc. -

This will include the determination that appropriate records have been created and maintained to document the implementation and maintenance of an ongoing program. -

Action taken to resolve or improve the Mode Compliance Plan is documented in the annual report. -

Appendix A

Federal & State Guidelines

- 1. - Fraud and Abuse Laws -
False Claims Act (42 U.S.C. §1320a-7b(a)) -
- 2. New Mexico Medicaid False Claims Act, NMSA 1978, 27-14-1, et seq
- 3. - Anti-Kickback Act (42 U.S.C. §1320a-7b(b)) -
Civil Monetary Penalties Act (42 U.S.C. §1320a-7a) -
Ethics in Patient Referrals Act of 1989 (42 U.S.C. §1395nn) -
Health Care Fraud Act (18 U.S.C. §1347) -
- 4. - False Statement and False Claims Laws -
Criminal False Statements Related to Health Care Matters (18 U.S.C. §1035) -
Civil False Claims Act (31 U.S.C. §3729(a)) -
Criminal False Claims Act (18 U.S.C. §286, 287) -
Criminal Wire and Mail Fraud (18 U.S.C. §1341, 1343) -
Criminal False Statement Act (18 U.S.C. §1001) -
Theft or Embezzlement in Connection with Health Care (18 U.S.C. §669) -
Obstruction of Criminal Investigations of Health Care Offenses (18 U.S.C. §1518) -
- 5. - Conspiracy Laws -
Criminal Conspiracy (18 U.S.C. §371) -
RICO and Money Laundering Acts (18 U.S.C. §1956, 1961 et. seq.) -
Issues Relating to Supervising Physicians in the Teaching Setting (42 C.F.R. - 415.170) -
- 6. - Hospital Laboratory Issues -
Clinical Laboratory Improvement Act (42 U.S.C. §263a) -
- 7. EMTALA (Anti-Dumping Statue or COBRA) (42 U.S.C. §1365dd)

Compliance Policies and Procedures

Any JSU employee who violates State, Federal or Local laws and /or regulations not only risks individual indictment, criminal prosecution and penalties, civil actions for damages and penalties and administrative exclusion, but also subjects the ABQ IHS to the same risks and penalties.

This outline is not intended to identify all applicable laws, and as described below, JSU employees should always consult the facility and Compliance Officer with specific questions.

A. Fraud and Abuse Laws

1. - False Claims Act (42 U.S.C. §1320a-7b(a))

JSU employees shall not knowingly and willfully make or cause to be made any false statement or representation of material fact in any claim or application for benefits under any federal health care program or healthcare benefit program. In addition, JSU employees shall not, with knowledge and fraudulent intent, retain federal healthcare program or healthcare benefit program funds, which have not been properly paid.

Examples of prohibited conduct include, but are not limited to, billing for services not actually rendered; misrepresenting services which were rendered; making false statements to governmental agencies about the organization's compliance with any state or federal rules; falsely certifying that services were medically necessary; charging rates in excess of applicable federal or state healthcare program established rates; up coding – utilizing a code to bill for a higher level of service or procedure, thus resulting in an increase in reimbursement rate; failure to refund overpayments made by a federal or state healthcare program; violating the terms of a participating physician agreement on a willful and consistent basis; repeatedly violating the terms of a participating physician agreement, and failing to refund overpayments made by a federal healthcare program.

2. Anti-Kickback Act (42 U.S.C. §1320a-7b(b)) -

JSU employees shall not knowingly and willfully solicit, offer to pay, pay, or receive, any remuneration, either directly or indirectly, overtly or covertly, in cash or in kind, in return for: -

- a. Referring an individual to a person or the furnishing, or arranging for the furnishing, of any item or service for which payment may be made, in whole or in part, under any federal healthcare program; or
- b. - Purchasing, leasing, ordering, or arranging for or recommending the purchasing, leasing, or ordering for any good, facility, service, or item for which payment may be made in whole or in part, under any federal healthcare program. -

Remuneration may include kickback payments, bribes, or rebates. Certain safe harbors, such as group purchasing agreements, among others, are excluded from this prohibition and are recognized by JSU.

3. Civil Monetary Penalties Act (42 U.S.C. §1320a-7a)

JSU employees shall not knowingly present a claim to any federal healthcare program or healthcare benefit program for an item or service the person knows or should have known, was not provided, was fraudulent, or was not medically necessary. No claim for an item or service shall be submitted that is based on a code that the person knows or should know will result in greater payment than the code the person knows or should know is applicable to the item or service actually provided. JSU employees shall not give or cause to be given any information with respect to coverage of inpatient services which that person knows is false and could influence the decision regarding when to discharge an individual from any healthcare facility.

JSU employees shall not offer to transfer, or transfer, any remuneration to a beneficiary under a federal healthcare program, that the person knows or should know is likely to influence the beneficiary to order or receive any item or service from a particular provider, practitioner, or supplier, for which payment may be made, in whole or in part, under a federal healthcare program. Remuneration includes that waiver of coinsurance and deductible amounts except as otherwise provided, and transfers or items or services for free or for less than the fair market value.

4. Ethics in Patient Referrals Act of 1989 (42 U.S.C. §1395nn)

JSU employees, who have ownership or a compensation relationship in non-excluded entities, shall not refer a patient in need of designated health services for which payment may be made under Medicare or Medicaid to such entities with which they have a financial relationship.

5. Health Care Fraud Act (18 U.S.C. §1347) -

JSU employees shall not knowingly or willfully execute or attempt to execute, a scheme or artifice to: -

- a. Defraud any healthcare benefit program; or -
- b. - Obtain, by means of false or fraudulent pretense, representation, or promise any of the money or property owned by or under the custody or control of any healthcare benefit program, in connection with the delivery of, or payment for, healthcare benefits, items, or services.

A. False Statement and False Claims Laws

1. - Criminal False Statements Related to Health Care Matters (18 U.S.C. §1035)

JSU employees shall not knowingly and willfully make or use any false, fictitious, or fraudulent statements, representations, writings or documents, regarding a material fact in connection with the delivery of, or payment for, healthcare benefits, items or services. JSU employees shall not knowingly and willfully falsify conceal or cover up a material fact by any trick, scheme, and device.

2. Civil False Claims Act (31 U.S.C. §3729(a))

- a. JSU employees shall not knowingly file a false or fraudulent claim for payments to a governmental agency or healthcare benefit program.
- b. JSU employees shall not knowingly use a false record or statement to obtain payment on a false or fraudulent claim from a governmental agency or healthcare benefit program, or
- c. JSU employees shall not conspire to defraud a governmental agency or healthcare benefit program by attempting to have a false or fraudulent claim paid.

Examples of false or fraudulent claims include, but are not limited to, double billing, up coding, unbundling, submitting or processing claims for items or services not provided, submitting or processing claims for items or services not medically necessary, and billing for non-covered services.

3. Criminal False Claims Act (18 U.S.C. §286, 287)

JSU employees shall not knowingly make any false, fraudulent or fictitious claim against a governmental agency or healthcare benefit program. Conspiring to defraud a governmental agency or healthcare benefit program is also prohibited.

4. Criminal Wire and Mail Fraud (18 U.S.C. §1341, 1343) -

JSU employees shall not devise a scheme to defraud a governmental agency or healthcare benefit program, which uses the U.S. Postal Service, private postal carriers or telephone lines or perpetrate the fraud. -

5. Criminal False Statement Act (18 U.S.C. §1001) -

JSU employees shall not knowingly and willfully falsify or make any fraudulent, false or fictitious statement against a governmental agency or healthcare benefit program. -

6. Theft or Embezzlement in Connection with Health Care (18 U.S.C. §669) -

JSU employees shall not embezzle, steal, or otherwise without authority convert to the benefit of another person, or intentionally misapply money, funds, securities, premiums, credits, property, or other assets or a healthcare benefit program.

7. Obstruction of Criminal Investigations of Health Care Offenses (18 U.S.C. §1518)

JSU employees shall not willfully prevent, obstruct, mislead, delay, or attempt to prevent, obstruct, mislead or delay the communication of information or records relating to a violation of a federal healthcare offense to a criminal investigator.

A. Conspiracy Laws

1. Criminal Conspiracy (18 U.S.C. §371)

JSU employees shall not conspire to defraud any governmental agency or healthcare benefit program in any manner or for any purpose.

2. RICO and Money Laundering Acts (18 U.S.C. §1956, 1961 et. seq.)

JSU employees shall not use any income obtained from mail or wire or computer fraud to operate any enterprise. In addition, JSU employees shall not sue the proceeds to wire, mail or computer fraud in financial transactions, which promote the underlying fraud.

Appendix B

Employee Obligation

All JSU employees will comply with all federal and state laws and regulations pertaining to billing, coding, and the provision of healthcare services. Certain areas warrant on-going risk assessment. Other areas of concern may also be identified and declared prohibited as the result of continuous risk assessment and evaluation of the compliance plan. All employees are prohibited from participating directly or indirectly in the following areas:

A. - Up coding

The practice of using billing codes or DRG codes for the explicit purpose of obtaining higher reimbursement when services provided and documentation for services provided does not support or justify such coding.

A. - Improper or False Claims

The presentation of improper or false claims to any alternate resource payer for the explicit purpose of increasing collections. The deliberate submission of improper or false claims shall be construed as a conspiracy to defraud alternate resource payers. Examples of improper or false claims include:

- Billing for services not rendered or not medically necessary
- Duplicate billing for the same services
- Billing for unbundled services
- Billing for discharge in lieu of transfer
- Billing for services supplied by a provider who is excluded from participation in Medicare, Medicaid or other federally funded program due to be convicted for fraudulent services.
- Rebilling Medicare, Medicaid or other Private Health Care Benefits provider (when not authorized) in an attempt to recover non-collected co-payments or co-insurances.

- Submitting claims for reimbursement when provider documentation is illegible in the medical record or for services not actually documented. In such cases clarification from the provider must be obtained before the submission of a claim for reimbursement.
- Billing for outpatient services rendered in connection with inpatient stays.

B. - Medically Unnecessary Services

The provision of unnecessary medical services (including procedures and admission) for the explicit purpose of improving reimbursement.

A. - Services By Unlicensed Providers

The practice of misrepresenting, to patients at the time of service, that a provider is licensed, credentialed, and/or privileged to provide appropriate services or is certified in a medical specialty or service when in actuality such provider is not properly licensed, credentialed, privileged, and/or certified.

A. - Patient Dumping

The refusal to treat, transfer, or discharge an individual (for whatever reason) upon presentation to the emergency department or ambulatory care clinic and on whose behalf a request is made for treatment or examination. An appropriate medical screening examination will be provided to determine if the individual is experiencing an emergency medical condition (including dental) and/or is in active labor, regardless of the nature of the medical condition. If warranted, the individual will be treated appropriately and his/her condition stabilized before transfer to another hospital or discharged in compliance with EMTALA.

A. - Kickbacks

Employees will not solicit or accept remuneration (i.e. kickback) in any form in return for providing items/services or procuring supplies either directly or via referral to another provider/supplies for which payment is made in whole or in part under a federal health care program or by a private payer.

A. Third Party Contractors

Employees will not have external relationships with third party contractors, specifically those with substantive exposure to government enforcement actions.

EMPLOYEE ACKNOWLEDGMENT

All employees of the Jicarilla Service Unit as a condition of their employment are required to comply with all policies and standards of the JSU. The JSU has implemented a Compliance Program representing its commitment to compliance with all billing and claims submissions, fraud and abuse laws, and regulations. All employees are therefore expected to comply with the policies of the Compliance Program. Employees are expected to:

- Attend required educational and training sessions relating to the Compliance Program;
- Be aware of all procedures of the Compliance Program, including the mandatory duty of all employees to report actual or possible violations of all billing and claims submission fraud and abuse laws and regulations; and
- Understand and adhere to the policies of the Compliance Program, especially those which relate to the employee's functions within the JSU.

To document the JSU's efforts with respect to educating and training employees as to the Compliance Program, employees shall acknowledge in writing their acceptance and understanding of the Program and its requirements.

Failure to follow the policies of the JSU's Compliance Program (including the duty to report misconduct) is considered to be a violation of clinic policy and may be grounds for disciplinary action by the JSU, including termination of employment when warranted.

I hereby acknowledge that I have read and reviewed JSU Compliance Program and understand that as an employee I have an obligation to fully adhere to these policies and principles. I hereby acknowledge and affirm that:

1. I fully understand the JSU Compliance Plan, and I acknowledge my commitment to comply with the JSU Compliance Plan as an employee of the JSU.
2. When I have a concern about a possible violation of JSU policy or the plan, I will promptly report the concern to the Compliance Officer in accordance with the Compliance Plan.

Employee Signature Date _____

Printed name of employee _____

REPORT OF SUSPECTED NON COMPLIANCE

CONFIDENTIAL & PRIVILEGED REPORT OF SUSPECTED NON-COMPLIANCE

Prepare the top portion of this form and forward it immediately to their Compliance Officer for review and consideration. If the Compliance Officer determines that the report has merit, the Compliance Officer must forward this report to the Chief Executive Officer. -

Report Number: _____ Date of Report _____ -

Report Received By: Hotline E-mail Supervisor Employee Other: _____ -

Originator of Report: _____ -

Subject of Report: _____ -

Date(s) of Alleged Non-Compliance: _____ -

Department(s) Involved: _____ -

Witnesses _____ -

Individuals desiring to keep their identities confidential: -

Relationship Name Identifying No. -

Complainant _____ -

Witness _____ -

Witness _____ -

Other _____ -

Describe incidence(s): _____ -

.....
RESPONSE TO REPORT OF SUSPECTED NON-COMPLIANCE -

Designated Investigator: _____ -

Other Assisting Investigation: _____ -

_____ -

Others Notified: CEO _____ Area _____ Outside Counsel _____ Other _____

Note: All relevant documents should be preserved. -

Disposition (include dates): -

Investigation started on: _____ -

Corrective Action: _____ -

Employment Action: _____ -

Disclosure to Intermediary or other: _____ -

Date Investigation Closed: _____ -

Attachments:

Employee Acknowledgement of Compliance Plan 2014
JSU Compliance Plan
Report of Suspected NonCompliance with Compliance Plan

Approval Signatures

Approver	Date
Sandra Lahi: CEO	02/2017
Maricela Bonilla: OD	01/2017

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